



# REGULATORY AGENCY ACTION

## LEGISLATION:

The following is a status update on bills reported in CRLR Vol. 10, Nos. 2 & 3 (Spring/Summer 1990) at page 88:

**AB 3242 (Lancaster)**, as amended July 27, exempts a person registered as a service dealer under the Electronic and Appliance Repair Dealer Registration Law from the requirement of registration under the Automotive Repair Act. (See CRLR Vol. 10, No. 1 (Winter 1990) pp. 66-67 and Vol. 9, No. 4 (Fall 1989) p. 56 for background information on the BEAR/BAR dual licensure issue.) This bill was signed by the Governor on September 21 (Chapter 1207, Statutes of 1990).

**AB 2226 (Epple)**. Existing law regulates consumer warranties and requires service contracts sold in lieu of, or in addition to, express warranties to meet specified requirements. As amended August 27, this bill adds to the provision applicable to these service contracts a requirement that the contract apply only to items, costs, or time periods not covered by express warranty, except as specified. This bill was signed by the Governor on September 21 (Chapter 1183, Statutes of 1990).

**AB 2532 (Vasconcellos)**, as amended August 28, would have required any person who installs, replaces, or services commercial or industrial refrigeration systems to reuse or recycle the CFCs; and prohibited the intentional venting or disposing of CFCs by any person. This bill was vetoed by the Governor on September 29.

**SB 2086 (Rosenthal)**, as amended August 13, would have required service contracts to contain, or have set forth in a related document, specified information relating to the total cost and terms of payment of the service contract, and the protection of the buyer from loss in the event of bankruptcy of the seller. This bill died in the Assembly Committee on Governmental Efficiency and Consumer Protection.

## RECENT MEETINGS:

At the July 20 meeting of BEAR's Executive Committee, Assistant Chief Gordon Boranian reported that GTE's local telephone directory in San Bernardino County now contains the following statement: "California law requires registration of all persons who repair or maintain, or who hold themselves out as repairing or maintaining consumer electronic sets or major home appliances. If you have questions concerning a specific problem or require information regarding the law, you should contact the State Bureau of Electronic and Appliance Repair." The state-

ment appears at the beginning of each of the various headings where a consumer would find a business activity requiring BEAR registration. Similar statements will appear in other GTE yellow pages directories throughout 1991 as old directories are phased out.

The GTE statement is the latest development in BEAR's continuing efforts to secure yellow pages notices under appropriate subheadings. (See CRLR Vol. 10, No. 1 (Winter 1990) p. 68 for background information.) Pacific Bell has agreed to list BEAR in its "Smart Shopper" pages, but refuses to include a single-line reference to the consumer pages under each applicable subheading, citing the high costs of implementation. A PacBell representative was invited to attend future BEAR meetings to discuss the matter fully.

Also at the July 20 Executive Committee meeting, Mr. Boranian provided an update on toxic parts. At the request of the American Electronic Association, BEAR is providing assistance to major electronic equipment manufacturers in obtaining any available reports or studies which discuss toxic elements used in the manufacture of electronic component parts. BEAR staff contacted the state Department of Health Services, which was not aware of any reports concerning this issue. BEAR staff will continue its search for relevant reports or studies.

The Executive Committee also noted that efforts are currently being made by some in the service industry to apply the federal Magnuson-Moss Warranty Act disclosure provisions to service contracts. These provisions require full disclosure where products are sold with warranties. The issue of service contracts has persisted for some time at BEAR Advisory Board meetings. (See CRLR Vol. 10, Nos. 2 & 3 (Spring/Summer 1990) pp. 88-89 for background information.) Service contracts allow consumers to purchase extended warranty coverage for appliances and home electronic equipment, and are often sold by companies in the exclusive business of service contracts. Advisory Board President Fay Wood requested that BEAR staff obtain copies of all current legislation that would have an impact on service contracts and highlight issues which have been discussed by the Board.

At its August 17 meeting, BEAR's Advisory Board once again discussed the issue of service contracts. Specifically, BEAR inquired as to whether it could support SB 2086 (Rosenthal) in principle. (See *supra* LEGISLATION.) Dan Buntjer, Supervising Legal Counsel for the Department of Consumer Affairs (DCA), advised BEAR that section 9825

of the Business and Professions Code sets forth the authority of the Advisory Board. He further advised that the Board must work through the Bureau Chief, who in turn works through the DCA Director. The Board studies, advises, and makes recommendations to the Chief and Director. Based on this analysis, Mr. Buntjer concluded that it would be improper for BEAR to take an independent or unilateral position before a legislative body.

Also at its August meeting, Chief Hayes noted that a recent survey showed that approximately 20 telephone calls per month to BEAR from consumers relate to cellular telephone problems. Faulty installation appears to be a problem despite the general reduction in size of the cellular telephone. Mr. Hayes suggested that cellular telephone installation be regulated by the Bureau of Automotive Repair (BAR), since the installation requires integration with other electrical and electronic components of the vehicle. BEAR Program Manager George Busman agreed to contact BAR and provide an update at the next meeting.

Finally, it was announced at the August meeting that BEAR still needs three additional Advisory Board members to fill existing vacancies. (See CRLR Vol. 10, Nos. 2 & 3 (Spring/Summer 1990) p. 87 for background information.) Two of these vacancies are to be filled with public members, and one is an electronics industry position.

## FUTURE MEETINGS:

To be announced.

## BOARD OF FUNERAL DIRECTORS AND EMBALMERS

*Executive Officer: James B. Allen*  
(916) 445-2413

The Board of Funeral Directors and Embalmers licenses funeral establishments and embalmers. It registers apprentice embalmers and approves funeral establishments for apprenticeship training. The Board annually accredits embalming schools and administers licensing examinations. The Board inspects the physical and sanitary conditions in funeral establishments, enforces price disclosure laws, and approves changes in business name or location. The Board also audits preneed funeral trust accounts maintained by its licensees, which is statutorily mandated prior to transfer or cancellation of a license. Finally, the Board investigates, mediates, and resolves consumer complaints.



The Board is authorized under Business and Professions Code section 7600 *et seq.* The Board consists of five members: two Board licensees and three public members. In carrying out its primary responsibilities, the Board is empowered to adopt and enforce reasonably necessary rules and regulations; these regulations are codified in Chapter 12, Title 16 of the California Code of Regulations (CCR).

## MAJOR PROJECTS:

*Proposed Regulatory Changes.* At this writing, the Board is continuing to prepare the rulemaking package on proposed section 1262, Chapter 12, Title 16 of the CCR, which would prohibit the practice of "constructive delivery" of merchandise purchased under a preneed trust arrangement. (See CRLR Vol. 10, Nos. 2 & 3 (Spring/Summer 1990) p. 89; Vol. 10, No. 1 (Winter 1990) pp. 68-69; and Vol. 9, No. 4 (Fall 1989) p. 57 for extensive background information.)

In July, the Board continued discussion regarding proposed changes to section 1267, which would require that certain financial records be maintained by funeral establishments. (See CRLR Vol. 10, Nos. 2 & 3 (Spring/Summer 1990) pp. 89-90 for background information.) Following the discussion, the Board agreed that such changes are not necessary at this time.

## LEGISLATION:

*SB 722 (Hill).* As amended August 15, this bill requires that all vital statistic certificates relating to births and deaths be completed in a manner consistent with the policies established by the State Registrar. In the event that a vital statistic certificate is not completed in such a manner, local registrars must require further information prior to acceptance for registration. This bill was signed by the Governor on September 17 (Chapter 972, Statutes of 1990).

*SB 26 (Lockyer)* would have, among other things, amended section 7739 of the California Business and Professions Code to provide that a person who willfully violates the laws regarding preneed trusts is guilty of a Class E felony, punishable by no more than six months in county jail or a \$500 fine, or both. This bill was vetoed by the Governor on September 30.

## LITIGATION:

The lawsuit filed by Funeral Securities Plans, Inc. (FSP) against the Board of Funeral Directors and Embalmers (No. 512564, Sacramento County Superior Court) alleging that the Board violated the Bagley-Keene Open Meeting Act, Government Code section 11120 *et*

*seq.*, has prompted the Board to file a cross-complaint against FSP alleging, among other things, that the complaint against the Board is frivolous. In its cross-complaint, the Board alleges that the suit was brought by FSP for no reason other than to gain access to confidential Board information via the discovery process. (See CRLR Vol. 10, Nos. 2 & 3 (Spring/Summer 1990) pp. 90-91 for extensive background information on this action.) At this writing, both parties are involved in discovery.

The Second District Court of Appeal recently issued a writ of mandate granting standing to sue to a class of plaintiffs who brought an action against several mortuary and crematorium defendants for the intentional and negligent mishandling of corpses and human remains. In *Unidentified Relatives or Family Members Who Claim Standing As Individual Plaintiffs in Sconce/Lamb Cremation Cases v. Superior Court (Pasadena Crematorium of Altadena, et al.)*, No. B042719 (June 28, 1990; as modified July 27, 1990), plaintiffs allege that the defendants improperly handled the remains of as many as 16,000 decedents and removed organs from approximately 1,000 decedents. Their complaint alleges that between 1980 and January 1987, defendants "mutilated decedents' remains by removing and 'harvesting' organs and body parts, performed multiple cremations;...commingled decedents' cremated remains with those of other decedents, and with nonhuman residue; [and] extracted gold and other metals from decedents' remains," among other allegations.

The trial court's pretrial order limited the plaintiff class to those persons who contracted for mortuary services and the individuals entitled to control the disposition of the remains at the time of the decedent's death. The appellate court revised this order, and granted standing to sue for negligent mishandling to relatives living in the same household as decedent and decedent's parents, siblings, children, grandchildren, and grandparents; the court further granted all family members and close friends standing to sue for intentional mishandling of decedents' remains. (See *supra* agency report on CEMETERY BOARD for further information on this case.)

One of the mortuary defendants, Lamb Funeral Home, has had its license revoked by the Board for charges and complaints filed against it in connection with this action.

## RECENT MEETINGS:

At the Board's July 27 meeting in San Diego, the Board discussed its present

and projected fund condition and its need for increased revenue. The Board considered possible action regarding license fee increases; the matter was referred to the Budget Committee and will be discussed again at upcoming meetings.

Also at its July 27 meeting, the Board discussed a recommendation that it convert from the present annual license renewal schedule to an anniversary date renewal schedule. The Board would derive many benefits from changing the license renewal schedule from the present system (under which all licenses expire at the same time each year), to a schedule where each licensee must renew on his/her original license application anniversary date.

For example, the administrative work associated with processing license renewals would be spread out more evenly over the year, rather than concentrated at one time. Also, distributing the renewal dates throughout the year would help to alleviate the Board's cash flow problems by guaranteeing a steady flow of revenue rather than one lump sum each year. Finally, the Board would be able to experience somewhat of a windfall the first year; such a system is sometimes implemented due to the fact that some licensees' anniversary dates will be relatively close to the old system's annual renewal date. This windfall could help the Board's depressed financial condition.

## FUTURE MEETINGS:

January 24 in San Francisco (tentative).

## BOARD OF REGISTRATION FOR GEOLOGISTS AND GEOPHYSICISTS

*Executive Officer: John E. Wolfe*  
(916) 445-1920

The Board of Registration for Geologists and Geophysicists (BRGG) is mandated by the Geology Act, Business and Professions Code section 7800 *et seq.* The Board was created by AB 600 (Ketchum) in 1969; its jurisdiction was extended to include geophysicists in 1972. The Board's regulations are found in Chapter 29, Title 16 of the California Code of Regulations (CCR).

The Board licenses geologists and geophysicists and certifies engineering geologists. In addition to successfully passing the Board's written examination, an applicant must have fulfilled specified undergraduate educational requirements and have the equivalent of seven